

518



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,028	03/02/2004	Jay S. Walker	03-018	1255
22927	7590	04/04/2005	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			BROCKETTI, JULIE K	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 04/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/791,028	Applicant(s) WALKER ET AL.	
	Examiner Julie K Brockett	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 15, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04292004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of invention I in the reply filed on January 27, 2005 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-8, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Betmaker.com. Betmaker.com teaches of method for players to make bets on various events. A balance of funds is established for a player (See Betmaker.com, "FAQ player accounts"). A wager amount is determined for a game. For example, there are minimum wager amounts required (See Betmaker.com "about betmaker"). The system determines whether the wager amount is greater than a predetermined amount. For example, the system will not accept bets less than the minimum bet; therefore, the computer system checks to make sure the bet is greater than the minimum bet amount (See Betmaker.com "FAQ"). A confirmation message is displayed if

the wager amount is greater than the predetermined amount. For example, a confirmation message is displayed if the player meets the minimum bet (See Betmaker.com "Buy-wagering") [claims 1, 33, 34]. The game comprises a plurality of plays. For example, football and baseball involve plays in game play (See Betmaker.com) [claim 2]. The wager amount required corresponds to a plurality of plays (See Betmaker.com "parlays") [claim 5]. The wager amount required corresponds to a predetermined period of time (See Betmaker.com "singles", "general rules") [claim 6]. For example, the player wagers on a specific time limit for the sporting event. The confirmation message comprises a confirmation screen (See Betmaker.com "Buy-wagering") [claim 7]. The confirmation screen comprises at least one selectable location (See Betmaker.com "Buy-wagering") [claim 8]. It is inherent to the Betmaker system that it includes a computer with a processor and a computer readable medium storing instructions configured to direct a processor to perform the aforementioned method [claims 33, 34]. The Betmaker system involves on-line bet placing which requires a computer and software to function.

It is noted that the Examiner retrieved the July 21, 2001 version of Betmaker.com from the Internet archives.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betmaker.com in view of Walker, U.S. Patent No.

6,077,163. Betmaker.com lacks in disclosing that the game comprises a flat rate or a prepaid session. Walker discloses a gaming machine in which the game comprises a flat rate session and a prepaid session (See Walker abstract [claims 3 & 4]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the users of Betmaker.com prepay for a flat rate session by prepaying or by paying for a flat rate session a player only has to wager once for multiple games and is not burdened with constantly having to wager for other games. For example it would have been obvious that, a player could wager \$100 to be divided up among 10 games in Betmaker.com.

Walker discloses a method of receiving a request to initiate play of a game at a gaming machine (See Walker col. 4 lines 6-10). The device determines whether to present confirmation information to a player. If confirmation is to be presented to the player, the device determines the confirmation to present and presents it to the player (See Walker col. 14 lines 67-68; col. 15 lines 1-9). A credit balance associated with the player is decremented and play is initiated (See Walker col. 15 lines 19). In determining whether to present the confirmation information to the player. The device

determines the cost to play the game and determines whether the cost to play the game is greater than a predetermined cost (See Walker col. 14 lines 67-68; col. 15 lines 1-9) [claim 15]. Walker lacks in having the player confirm the confirmation information. Betmaker.com teaches of the player confirming the confirmation information (See Betmaker.com "Buy-wagering"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the player confirm the wager. By having the player confirm the wager, the player makes sure that they have wagered what they wanted to and if they accidentally make a wager, they have a chance to cancel it before they are liable for the wager. Therefore the act of confirming a wager provides additional protection for the player.

Response to Amendment

It has been noted that claim 15 has been amended. Claims 9-14 and 16-32 have been cancelled. New claims 33 and 34 have been added.

Citation of Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Walker et al., U.S. Patent No. 6,527,638 B1.

--Walker discloses players confirming their wagers.

2. McBride, U.S. Patent No. 6,336,857 B1.

--McBride discloses a confirmation button for players to confirm payments.

3. Smith, U.S. Patent No. 6,299,532 B1.

--Smith discloses players confirming bets.

4. Hall, U.S. Patent No. 5,873,782.

--Hall discloses confirming bets.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie K Brockett
Primary Examiner
Art Unit 3713